

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS DALLAS DIVISION**

APRIL ADAMS,

Plaintiff,

v.

**ANDREI TCACIOV; HMD TRUCKING,
INC.; AND US LEASING, LLC.**

Defendants.

§
§
§
§
§
§
§
§
§
§

CASE NO. 3:20-cv-03099-B

JURY TRIAL DEMANDED

DEFENDANT HMD TRUCKING, INC.'S ANSWER

Defendant HMD Trucking, Inc. ("Defendant HMD") answers Plaintiff's Original Petition as follows. Unless otherwise admitted, Defendant HMD denies each and every allegation contained in Plaintiff's Original Petition.

I. DISCOVERY CONTROL PLAN

Paragraph I does not apply under the Federal Rules of Civil Procedure. Defendant HMD will comply with the Federal Rules of Civil Procedure and this Court's Orders regarding discovery.

II. RELIEF

Defendant HMD denies the allegations contained in Paragraph II of Plaintiff's Original Petition.

III. PARTIES

Defendant HMD admits it is located in Chicago Ridge, Cook County, Illinois, Defendant HMD also admits US Leasing, LLC is located in Chicago Ridge, Cook County, Illinois; otherwise, Defendant HMD lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph III of Plaintiff's Original Petition.

IV. JURISDICTION AND VENUE

Defendant HMD denies the allegations contained in Paragraph IV of Plaintiff's Original Petition.

V. FACTS

In response to the allegations contained in Paragraph V of Plaintiff's Original Petition, Defendant HMD admits that on or about October 19, 2019, Andrei Tcaciiov was involved in a motor vehicle collision while operating an 18-wheeler in Mesquite, Texas; otherwise, Defendant HMD lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in Paragraph V of Plaintiff's Original Petition.

VI. CAUSES OF ACTION

A. NEGLIGENCE -- DEFENDANT ANDREI TCACIOV

The allegations contained in paragraph VI.A. of Plaintiff's Original Petition are not directed to and do not require an answer from Defendant HMD.

B. NEGLIGENT ENTRUSTMENT: DEFENDANTS HMD TRUCKING, INC. AND US LEASING, LLC

Defendant HMD denies the allegations contained in paragraph VI.B. of Plaintiff's Original Petition.

C. RESPONDEAT SUPERIOR: HMD TRUCKING, INC. AND US LEASING, LLC

Defendant HMD denies the allegations contained in paragraph VI.C. of Plaintiff's Original Petition.

D. NEGLIGENCE: HMD TRUCKING, INC. AND US LEASING, LLC

Defendant HMD denies the allegations contained in paragraph VI.D. of Plaintiff's Original Petition.

VII. DAMAGES

Defendant HMD denies the allegations contained in the unnumbered paragraphs of Paragraph VII of Plaintiff's Original Petition.

1. Defendant HMD denies the allegations contained in Paragraph VII.a. of Plaintiff's Original Petition.
2. Defendant HMD denies the allegations contained in Paragraph VII.b. of Plaintiff's Original Petition.
3. Defendant HMD denies the allegations contained in Paragraph VII.c. of Plaintiff's Original Petition.
4. Defendant HMD denies the allegations contained in Paragraph VII.d. of Plaintiff's Original Petition.
5. Defendant HMD denies the allegations contained in Paragraph VII.e. of Plaintiff's Original Petition.

VIII. REQUEST FOR DISCLOSURE

Paragraph VIII. of Plaintiff's Original Petition does not apply under the Federal Rules of Civil Procedure. Defendant HMD will comply with the disclosure requirements of the Federal Rules of Civil Procedure.

IX. DISCOVERY DOCUMENTS

Paragraph IX. of Plaintiff's Original Petition does not apply under the Federal Rules of Civil Procedure. Defendant HMD will comply with the Federal Rules of Civil Procedure and this Court's Orders regarding discovery.

X. INTENT TO USE DEFENDANTS' DOCUMENTS

Paragraph X of Plaintiff's Original Petition does not apply under the Federal Rules of Civil Procedure. Defendant HMD will proceed consistent with the Federal Rules of Civil Procedure, the Federal Rules of Evidence and this Court's Orders.

XI. JURY TRIAL DEMAND

Defendant HMD demands trial by jury of all triable issues.

XII. U.S. LIFE TABLES

Under the Federal Rules of Civil Procedure, Paragraph XII. of Plaintiff's Original Petition does not require a response from Defendant HMD.

XIII. RELIEF

In response to Paragraph XIII. of Plaintiff's Original Petition, Defendant HMD denies Plaintiff is entitled to the relief requested.

1. Defendant HMD denies the allegations contained in Paragraph XIII.1. of Plaintiff's Original Petition.
2. Defendant HMD denies the allegations contained in Paragraph XIII.2. of Plaintiff's Original Petition.
3. Defendant HMD denies the allegations contained in Paragraph XIII.3. of Plaintiff's Original Petition.
4. Defendant HMD denies the allegations contained in Paragraph XIII.4. of Plaintiff's Original Petition.
5. Defendant HMD denies the allegations contained in Paragraph XIII.5. of Plaintiff's Original Petition.

6. Defendant HMD denies the allegations contained in Paragraph XIII.6. of Plaintiff's Original Petition.
7. Defendant HMD denies the allegations contained in Paragraph XIII.7. of Plaintiff's Original Petition.
8. Defendant HMD denies the allegations contained in Paragraph XIII.8. of Plaintiff's Original Petition.
9. Defendant HMD denies the allegations contained in Paragraph XIII.9. of Plaintiff's Original Petition.
10. Defendant HMD denies the allegations contained in Paragraph XIII.10. of Plaintiff's Original Petition.

XIV. AFFIRMATIVE DEFENSES

Without assuming any burden of proof that properly sits with another party, Defendant HMD asserts the following defenses:

1. Neither the Complaint nor any purported cause of action alleged therein state claims upon which relief can be granted.
2. Defendant HMD is not liable for the matters and things alleged in Plaintiff's Petition;
3. Defendant HMD denies the material allegations in Plaintiff's Complaint and demands strict proof thereof;
4. Defendant HMD is not responsible for any expenses or damages allegedly incurred by Plaintiff's own acts, conduct, negligence and/or failure to exercise reasonable care in mitigating her damages;
5. Defendant HMD would show that at the time and on the occasion in question, Plaintiff failed to use that degree of care and caution that would have been used by a person with

ordinary prudence under the same or similar circumstances, and that such failure was a proximate cause or a producing cause, or the sole proximate cause or the sole producing cause, of the incident in question and any alleged damages stemming therefrom. Defendants therefore invoke the comparative responsibility provisions of the Texas Civil Practice & Remedies Code, § 33.001, *et seq.*

6. Pursuant to Texas Civil Practice and Remedies Code § 41.0105, Defendant HMD asserts that Plaintiff's recovery of medical or health care expenses, if any, is limited to the amount actually paid or incurred by or on behalf of the Plaintiff.

7. Defendant HMD invokes the provisions of Texas Civil Practice & Remedies Code § 18.091 that require proof of loss of earnings, loss of earning capacity, loss of contribution of pecuniary value and other losses be presented in the form of a net loss after reduction for federal income tax liability.

8. Further, and to the extent necessary, Defendant HMD contends Plaintiff's claim for prejudgment interest is limited by the dates and amounts set forth in Chapter 304 of the Texas Finance Code and/or any other applicable statute.

9. Defendant HMD further states that in the unlikely event an adverse judgment is rendered against it, Defendant HMD respectfully requests all available credits and/or offsets as provided by the Texas Civil Practice and Remedies Code and under Texas law.

10. Defendant HMD hereby reserves the right to seek amendment of this Answer and reserve all defenses set out in Rules 8 and 12 of the Federal Rules of Civil Procedure, and any other defenses, at law or in equity, which are known or become known after the substantial completion of discovery or otherwise in the course litigation.

Therefore, Defendant HMD prays that Plaintiff take nothing by her claims, that judgment be entered in its favor and that the Court grant any further relief to which it finds Defendant HMD is justly entitled.

Respectfully submitted,

LEWIS, BRISBOIS, BISGAARD & SMITH, LLP

/s/ Christopher C. White

Christopher C. White

State Bar No. 00794841

Chris.White@lewisbrisbois.com

2100 Ross Avenue, Suite 2000

Dallas, Texas 75201

Telephone: (214) 722-7100

Facsimile: (214) 722-7111

**ATTORNEYS FOR DEFENDANTS ANDREI
TCACIOV; HMD TRUCKING, INC. and
US LEASING, LLC**

CERTIFICATE OF SERVICE

I certify that I served the foregoing document on December 10, 2020, *via CM/ECF* on the following attorneys of record:

Brennan Clay

Amy K. Witherite

Witherite Law Group, PLLC

10440 N. Central Expressway, Suite 400

Dallas, TX 75231

brennan.clay@witheritelaw.com

amy.witherite@witheritelaw.com

/s/ Christopher C. White

Christopher C. White